



# Te Kawa Mataaho

## Public Service Commission

28 February 2024

Mr Dave Samuels  
Te Tumu Whakarae mō Te Puni Kōkiri  
Te Puni Kōkiri

Tēnā koe Dave,

### Looking into a TPK appointment process

On 16 February you asked me to look into Te Puni Kōkiri's processes and decision-making relating to the appointment of **9(2)(a) privacy** role of Senior Adviser Māori Capability (the appointment).

Concerns have been raised about the appointment, both by Te Puni Kōkiri staff and in the media. You explained that **9(2)(a) privacy** is the son of a close friend of yours. Given the perceived conflict of interest, you considered that it would be prudent for the appointment to be looked into independently. I agreed with your assessment and replied to that effect on 19 February. I also agreed to conduct this work.

### Background

My understanding is that Te Puni Kōkiri (TPK) openly advertised for a Senior Adviser Māori Capability (the role) towards the end of last year. **9(2)(a) privacy** applied for the role. He was shortlisted, interviewed and then appointed for a fixed term of twelve months. As is TPK's standard practice, the appointment was on a provisional basis, subject to any review of the appointment that might be conducted. In line with this practice, the appointment was notified to TPK employees on 14 December 2023.

During the provisional period, concerns were raised and requests were made for the appointment to be reviewed. Specifically, the concerns were that in 2023 the New Zealand Teachers Disciplinary Tribunal cancelled **9(2)(a) privacy** teaching registration for serious misconduct under the Education Act 1989. The serious misconduct involved inappropriate conduct in relation to two students, during 2018 and 2019 (the serious misconduct). The decision of the Disciplinary Tribunal was publicly available prior to **9(2)(a) privacy** appointment.

The request for a review of the appointment were declined. A subsequent request to reconsider that decision was also declined.

### Purpose

There is a need to address the concerns raised about this appointment so that trust and confidence in TPK is maintained. Integrity, fairness, and ethical behaviour are core Public Service ideals that must be demonstrated in our recruitment processes.

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Given that you have a perceived conflict of interest, I have agreed to look into how TPK has handled this matter. The purpose of this work is to provide an independent assessment of TPK's processes including the decision-making processes in this case.

As the chief executive of TPK, you have a statutory duty to act independently in employment matters, including in relation to appointment. Therefore, I will not make findings on the question of whether **9(2)(a) privacy** should have been appointed by TPK, and will not comment on the suitability of his appointment or otherwise draw any conclusions as to the appropriateness of his ongoing employment.

The subject of this work is TPK as an agency not **9(2)(a) privacy**, or any other individual in isolation.

In looking into this matter, I will need to consider personal information about **9(2)(a) privacy**. Please reassure him that the team supporting me in conducting this work will only request the information necessary to achieve the purpose outlined above and will hold that information securely in line with our obligations under the Privacy Act.

### **The matters within scope**

There is a need to conduct an independent assessment of the integrity of TPK's processes, including decision-making processes, related to:

1. **9(2)(a) privacy** appointment; and
2. The requests for a review during the provisional period.

In doing so we will consider, make findings and report on, any inadequacies in the processes or decision-making, including any non-compliance with relevant TPK policies and procedures and/or system-wide guidance. This includes TPK's recruitment, conflict of interest, and review of appointment policies. It also includes the Public Service Commission's Workforce Guidance: Public Service Agencies Conducting a Review of Appointment Process, Workforce Assurance Model Standards and Conflict of Interest Model Standards.

The time period that we are interested in is from the commencement of the recruitment process until the date **9(2)(a) privacy** provisional appointment period came to an end.

### **Next steps**

Having further considered the matter, at this stage I see no need for formal terms of reference as, if you are comfortable with the content of this letter, it would serve that purpose.

In terms of who will support me in conducting this work, I am in the process of establishing a small team to look into this matter and report to me. It will likely include specialist advisers from within the Commission, who work in our integrity, legal and/or workforce teams. My intention is to also appoint an external expert (the expert) to work with and lead the Commission team as they analyse the relevant information. The expert will be responsible for making the final findings and providing me with a report. To ensure that they are well placed to make these judgment calls, this expert may decide to interview the TPK staff involved in running the appointment process and making the key

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decisions. I would be interested to discuss with you my initial ideas on who a suitable person for this role might be.

In the meantime, I will establish the internal Commission team who can start work on identifying the relevant facts and understanding more about the rationale for TPK's decisions and actions.

I am conscious that this will be a stressful time for TPK and for the individuals involved in this matter. For that reason, I intend to ensure that this work is completed as quickly as possible and will ask the team to work to an indicative reporting date of mid-April.

I also appreciate that given your perceived conflict, you may decide to delegate responsibility for overseeing TPK's engagement with my team to someone in your agency who has not been involved in this matter to date.

Hugo Vitalis, Deputy Commissioner, Integrity, Ethics and Standards is the person leading this work within Te Kawa Mataaho, at least during this initial set up phase. He is happy to get in touch with whomever you nominate within TPK to lead this work. He will provide them with a list of documents that are needed enable the team to get started. Hugo's contact details are: 9(2)(a) privacy [REDACTED]

Of course, I am very happy to discuss any of the matters raised in this letter with you directly.

Naku noa, nā,



Heather Baggott  
Deputy Public Service Commissioner  
Te Pou Turuki mō Te Kawa Mataaho